

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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X  
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UNITED STATES OF AMERICA, :  
:  
*Plaintiff,* :  
:  
v. : Case No. 2:19-cv-5770  
:  
ROGER ROWE, :  
:  
*Defendant.* :  
———X

**COMPLAINT**

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment the assessed and unpaid federal tax liabilities owed by Roger Rowe. For its complaint, the United States alleges as follows:

**JURISDICTION AND PARTIES**

1. The district court has jurisdiction pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1331, 1340, and 1345.
2. The defendant Roger Rowe, resides in Suffolk County, New York, within the jurisdiction of this Court.

**COUNT ONE**  
**(Claim Against Roger Rowe to Reduce Trust Fund Liabilities to Judgment)**

3. Roger Rowe was a person required to collect, truthfully account for, or pay over the employment taxes of Integrated Construction Management Inc., as evidenced by the fact that he was the president, the 100% shareholder, and the person who filed for a Chapter 7 bankruptcy case on behalf of the corporation. The bankruptcy petition did not name any other officer, director, or shareholder of the corporation.

4. Roger Rowe willfully failed to collect, truthfully account for, or pay over the employment taxes of Integrated Construction Management Inc.

5. On October 19, 2009, a delegate of the Secretary of the Treasury made trust fund liability assessments under 26 U.S.C. § 6672 against Roger Rowe in regards to the periods and in the amounts described below. The amounts represent the unpaid portion of the income and Federal Insurance Contributions Act (“FICA”) taxes withheld from the wages of employees of Integrated Construction Management Inc. (the trust funds). These assessments have balances due with interest and costs as of October 7, 2019, as follows:

<b>Tax Period Ending</b>	<b>Amount Assessed</b>	<b>Balance Due (as of 10/07/2019)</b>
12/31/2007	\$65,666.48	\$95,302.38
03/31/2008	\$63,071.12	\$91,434.20
06/30/2008	\$272,837.87	\$105,593.06
09/30/2008	\$8,317.15	\$12,057.39
<b>Total</b>		<b>\$304,387.03</b>

6. Notice of the liabilities described in paragraph 5 was given to, and payment demanded from, Roger Rowe.

7. Despite proper notice and demand, Roger Rowe has failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, he remains liable to the United States in the amount of \$304,387.03, plus statutory interest accruing from and after October 7, 2019.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Roger Rowe for trust fund liabilities under 26 U.S.C. § 6672 in regard to Integrated Construction Management Inc., for the periods ending December 31, 2007, March 31, 2008, June 30, 2008, and September 30, 2008, in the amount of

\$304,387.03, plus statutory additions and interest accruing from and after October 7, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c); and

B. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General  
Tax Division, U.S. Department of Justice

/s/ Thelma A. Lizama  
THELMA A. LIZAMA  
Trial Attorney  
Tax Division, Department of Justice  
P.O. Box 55  
Washington, D.C. 20044  
(202) 616-3339  
(202) 514-5238 (fax)  
Thelma.A.Lizama@usdoj.gov

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> United States of America		<b>DEFENDANTS</b> Roger Rowe	
(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant <u>Suffolk County</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>	
(c) Attorneys (Firm Name, Address, and Telephone Number) Thelma A. Lizama, U.S. Dep't of Justice, PO Box 55, Washington, D.C. 20044, (202)616-3339		NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.	
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)	
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> PTF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business In This State
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> PTF 2 <input type="checkbox"/> DEF 2 Incorporated and Principal Place of Business In Another State
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTF 3 <input type="checkbox"/> DEF 3 Foreign Nation
			<input type="checkbox"/> PTF 4 <input type="checkbox"/> DEF 4
			<input type="checkbox"/> PTF 5 <input type="checkbox"/> DEF 5
			<input type="checkbox"/> PTF 6 <input type="checkbox"/> DEF 6
<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)			
<b>CONTRACT</b>		<b>TORTS</b>	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	
		<b>PERSONAL PROPERTY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	
<b>REAL PROPERTY</b>		<b>CIVIL RIGHTS</b>	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		<b>PRISONER PETITIONS</b> <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	
		<p><b>Other:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty	
<b>V. ORIGIN</b> (Place an "X" in One Box Only)			
<input checked="" type="checkbox"/> 1 Original Proceeding		<input type="checkbox"/> 2 Removed from State Court	
<input type="checkbox"/> 3 Remanded from Appellate Court		<input type="checkbox"/> 4 Reinstated or Reopened	
		<input type="checkbox"/> 5 Transferred from Another District (specify)	
		<input type="checkbox"/> 6 Multidistrict Litigation	
<b>VI. CAUSE OF ACTION</b>		Cite the U.S. Civil Statute under which you are filing ( <i>Do not cite jurisdictional statutes unless diversity</i> ): <b>26 U.S.C. 6502</b>	
Brief description of cause: <b>Collection after assessment</b>			
<b>VII. REQUESTED IN COMPLAINT:</b>		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.      DEMAND \$ <b>304,387.03</b>	
<b>VIII. RELATED CASE(S) IF ANY</b>		(See instructions):	
		JUDGE _____ DOCKET NUMBER _____	
DATE 10/11/2019		SIGNATURE OF ATTORNEY OF RECORD <b>/s/The尔ma A. Lizama</b>	
<b>FOR OFFICE USE ONLY</b>			
RECEIPT #	AMOUNT	APPLYING IFF	JUDGE
			MAG. JUDGE

## CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Thelma A. Lizama, counsel for United States of America, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,  
the complaint seeks injunctive relief,  
the matter is otherwise ineligible for the following reason

## **DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

## **RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

## **NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County?  Yes  No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County?  Yes  No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District?  Yes  No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: \_\_\_\_\_

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?  Yes  No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

## **BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes  No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain)  No

I certify the accuracy of all information provided above.

Signature: /s/ Thelma A. Lizama

**UNITED STATES DISTRICT COURT**  
for the  
**Eastern District of New York**

United States of America	)
	)
	)
	)
<hr/>	)
<i>Plaintiff(s)</i>	)
v.	)
Roger Rowe	)
	)
	)
<hr/>	)
<i>Defendant(s)</i>	)

Civil Action No. 2:19-cv-5770

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*) Roger Rowe  
20 Spruce Road  
North Amityville, NY 11707-1019

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Thelma A. Lizama  
U.S. Department of Justice  
PO Box 55  
Washington, D.C. 20044  
(202)616-3339

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

**DOUGLAS C. PALMER**  
*CLERK OF COURT*

Date: \_\_\_\_\_

*Signature of Clerk or Deputy Clerk*

Civil Action No. 2:19-cv-5770

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for (*name of individual and title, if any*) Roger Rowe  
was received by me on (*date*) \_\_\_\_\_.

- I personally served the summons on the individual at (*place*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or
- I left the summons at the individual's residence or usual place of abode with (*name*) \_\_\_\_\_,  
a person of suitable age and discretion who resides there,  
on (*date*) \_\_\_\_\_, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of (*name of organization*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or
- I returned the summons unexecuted because \_\_\_\_\_; or
- Other (*specify*): \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_ *Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: